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Kids, They're worth every penny.

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MONTANA DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES

Child Support Enforcement Division

"Working Together to Empower Montanans"



**State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111**

**STAN STEPHENS
GOVERNOR**

December 1, 1989

Dear Concerned Montanans:

Child support enforcement has been called the "Cornerstone of Welfare Reform". In order to reimburse the unnecessary expenditure of precious public resources and enable custodial families to achieve financial independence, it is vital that parents meet their responsibility to support their children.

Sweeping changes in federal welfare laws, encouraged and endorsed by the National Governor's Association, have imposed greater responsibilities upon state child support enforcement programs. Montana strengthened its child support laws in 1989 by implementing automatic income withholding and mandatory child support guidelines, by augmenting enforcement techniques for health insurance coverage and by making support debt information more readily available to private credit reporting agencies and their customers.

I urge you to take the few minutes necessary to read this booklet and to learn how these changes may affect you and your neighbors.

It is my intention to make Montana a welfare reform leader. By so doing, the well-being of our citizens -- and most especially our children -- will be assured.

Best personal regards,

A handwritten signature in black ink, appearing to read "Stan Stephens".
**Stan Stephens
Governor**

Kids, They're worth every penny.

Who should be concerned about changes to child support enforcement laws?

- employers
- persons who owe a support obligation
- persons who are entitled to receive a support obligation
- lawyers
- clerks of court
- judges
- lending institutions
- credit reporting agencies
- health insurance companies
- lawmakers
- anyone interested in improved child support enforcement



Who has the responsibility for enforcing these laws?

The Department of Social and Rehabilitation Services, Child Support Enforcement Division, headquartered in Helena, Montana with regional offices across the state. Office locations are identified in the back of the booklet.

Income Withholding

— What is automatic income withholding?

It is a way of collecting support through a mandatory payroll deduction, like taxes or FICA. It means that an employee has a support obligation. It does not necessarily mean that the employee is behind in his support payment.

— Who should be concerned about the process?

Any employer doing business in the state of Montana. Any person who owes a support obligation. Any person who is entitled to receive support. Any person involved in the Montana court system. Businesses who extend credit or report credit information.

— Which support orders are affected by automatic income withholding?

Any support order issued or modified in Montana after January 1, 1990 is subject to automatic income withholding. This includes administrative support orders.

— Are there any exceptions?

Yes. If the court finds there is good cause not to require automatic income withholding, it need not require automatic income withholding. Also, if the parties agree to an alternative arrangement which provides sufficient additional security to insure compliance with the support obligation, the court need not order automatic income withholding.

— How does automatic income withholding work?

When a court issues a support order, the clerk of court forwards a copy to the Division. The Division then sends an “Order to Withhold” to the employer. The employer withholds the support from the employee’s earnings and forwards the money to the Division for disbursement.



— **What are my duties as an employer?**

Once an order is received, you must deduct the support amount designated in the order no later than the first pay period that occurs after 14 days from the date the order was received. The money deducted must be sent to the Division within ten days.

You may combine all amounts withheld for two or more employees into a single check IF you attach a list which identifies the employee, social security number, and the amount withheld from that employee's earnings.

If you have more than one Order to Withhold for a single employee, you must comply with the orders in the sequence in which they were received. However, the total amount deducted may not exceed 50% of net earnings.

After you hire a new employee, you must make sure that the new employee completes a support obligation disclosure form. A suggested disclosure form is included in this booklet. Retain the completed form for three years or one year after the date employment is terminated, whichever is longer. This applies only to employees hired after January 1, 1990.

You must notify the Division whenever an employee subject to withholding is no longer employed by you. A suggested status change form is included in the back of this booklet. You must include the following information, if known:

- date of termination
 - employee's last known address
 - name and address of new employer or other source of income
- **I would rather not get involved in withholding for child support. Can't I just refuse to hire someone who has a withholding against his wage?**

No. If you refuse to hire or if you discipline or discharge an employee because of a required wage withholding for child support you will be subject to a fine of not more than \$500.00 or less than

\$150.00. You could also be required to make full restitution to the employee, including reinstatement and backpay.

— **I am concerned that the withholding will add administrative costs to my business. May I charge a fee to the employee?**

Yes. You may collect a fee to cover your costs. The maximum fee is \$5.00 and authorization will be stated in the order provided by the Division. The fee can be deducted from the wage at the same time the support payment is withheld. The fee is to be deducted from the employee's wages, not from the support payment.

— **What should I do if my employee says the amount withheld is wrong, is more than the employee can afford, or that the support obligation no longer exists?**

You must proceed or continue withholding as ordered until you receive written notice from the Division to modify or terminate withholding. The Division can answer the employee's questions.

— **In addition to wages my employees are periodically paid a sales commission. Do I withhold child support from the commission?**

Yes. Under Montana law, income means any form of periodic payment to a person including earnings and wages.

— **Several of my employees already have wage attachments and voluntary deductions against their paychecks and if I deduct for child support, the total deducted will be more than allowed under the law. How do I handle this situation?**

By Montana law, withholding for child support takes priority over any other legal process including other child support income deductions from another state carried out under that state law against the same wages. This means the child support withholding must be done first, then the deductions for other withholding orders, garnishments or voluntary deductions can be made.

— **What are my rights and duties as an employee?**

You have the right to a hearing before any past due amounts can be deducted.

You cannot be discharged, disciplined or denied a job simply because you have a support obligation.

You can request a review if the amount deducted for past due support causes you to suffer a substantial hardship.

You have the duty to tell your employer that your earnings are subject to income withholding. If you fail to do so, your failure may be punishable as a contempt of court.



— **What are my rights and duties as a person entitled to receive support?**

Unless you receive AFDC benefits, you are entitled to receive current support within 10 days after the Division receives it.

You must make application to the Division for support enforcement services, and you must keep the Division informed of your current mailing address so that the support money can be sent to you. You or your attorney may obtain an application from any regional office of the Division.

You are entitled to receive support enforcement services free of charge.

Child support collected on your behalf cannot be distributed to you until a completed application is received by the Division. See MCA Section 40-5-203.

— **Will automatic income withholding change decrees and support orders?**

Yes. Any new decree or support order, or any modification of an existing decree or order must include:

- the social security number of the person owing support;
- the name and address of the employer of the person owing support.

— **Where can I find the law on automatic income withholding?**

The law can be found in Title 40, Chapter 5, Part 4 of the Montana Code Annotated (1989) (MCA). For decrees of dissolution of marriage, see 40-4-204, MCA. Where a support order is part of a paternity proceeding, see 40-6-116, MCA.



Medical Insurance

- **Are there any new changes to the law concerning health insurance coverage?**

Yes. Beginning October 1, 1989, any person whose support obligation is being enforced by the Division must obtain and maintain health insurance coverage for their child or children whenever coverage is available from their employer or other group plan.

- **What if I lose my job or my employer doesn't offer health insurance?**

A district court can require you to purchase comparable health insurance from a private carrier.

- **Are there any exceptions to this coverage requirement?**

Although a district court can relieve you of this duty, if the Division ever provides support enforcement services for the child or children, the Division can require you to provide the coverage.

- **Am I still required to provide health insurance coverage if my children live in another state?**

Yes. Federal law requires every state to enforce this requirement. If the Division is enforcing an out-of-state support order, it must also enforce the health insurance requirement.

— How will the Division know that I have health insurance coverage for my children?

The Division will send you a questionnaire to complete. You must provide information concerning the name of the insurance company, the policy number, the names of the persons covered, and the type and extent of the coverage.

— What if I don't return the questionnaire?

If the Division doesn't receive the completed questionnaire within 30 days, you are subject to a fine of up to \$200 per month for each month you fail to provide coverage or information concerning coverage.

— What are my rights as a person who has a health insurance obligation?

You are entitled to receive notice and request a hearing before the Division can finally assess a fine. You are entitled to have the Division's final decision reviewed by the district court.

— What can I do, as an employer, to help my employees satisfy this health insurance requirement? You can help by:

asking employees if there is a health insurance obligation and provide the necessary insurance enrollment forms.

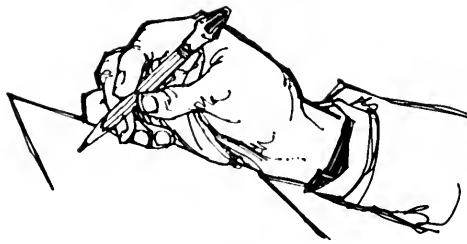
completing a notice of "Status Change: Employment/Health Insurance Coverage" if health insurance coverage lapses. A suggested form is in the back of the booklet.

— Will decrees of dissolution and support orders be affected?

Yes. All new or modified support orders must contain a provision regarding health insurance coverage.

— Where can I find the law on these health insurance requirements?

See Sections 40-5-208, 40-4-204, and 40-6-116 of the Montana Code Annotated (1989).



Credit Reporting

- **If I'm behind in my support payments, will my credit rating be affected?**

Possibly. The Division will report past due support obligations to national credit reporting agencies every month.

- **How can I prevent my name from being submitted to credit reporting agencies?**

If your children are currently receiving AFDC benefits, or if they've received AFDC in the past, and your past due support is less than \$150.00, you will not be reported.

If your children have never received AFDC, and your past due support is less than \$500.00, you will not be reported.

- **How can I get my support debt removed from my credit report?**

Your name will be removed by the Division only when your debt is paid in full, or the past due amount is less than the above mentioned limits.

- **I believe the wrong amount was reported. What can I do to correct it?**

If you believe that an error was made in reporting your debt, you should contact the Division. You must submit proof of your claim that the amount is incorrect. If informal negotiation with the Division does not resolve the issue, you are entitled to an administrative hearing. You are entitled to have the Division's final decision reviewed by the district court.

- **Is my right to privacy affected by this release of information?**

No. Child support debts are judgments. They are matters of public record. Confidential information which the Division may have will remain confidential.

- **Where can I find the law concerning the release of information to credit reporting agencies?**

See Sections 40-5-261 and 40-5-262 of the Montana Code Annotated (1989).

General Information

- **Where can I find the law regarding collection and enforcement fees?**
See Section 40-5-210, Montana Code Annotated (1989).
- **How is the amount of a child support obligation determined?**
Beginning on October 1, 1989, courts and the Division must apply the uniform child support guidelines to determine a child support amount. The guidelines take into consideration the assets and income of the parents and the needs of the child(ren).
- **Where can I get a copy of the guidelines?**
A copy can be obtained by contacting any Division office listed at the end of this booklet.
- **Where can I find the law concerning these guidelines?**
See Sections 40-5-209, 40-5-214, 40-4-204, 40-6-116 of the Montana Codes Annotated (1989).
- **Can the Division charge anything for an enforcement action?**
Yes. If a person who owes support falls behind in their payments, and the Division must take enforcement action, a fee may be charged that person. The fee depends on the cost of the enforcement action or activity.

**STATUS CHANGE:
EMPLOYMENT/HEALTH INSURANCE COVERAGE**

TO: MONTANA DEPARTMENT OF SRS
Child Support Enforcement Division (CSED)

(enter the address of the CSED Office serving your county)

RE: _____
(Name of Employee)

(Employee's Social Security Number for identification purposes only)

Change in Employment Status:

(Date of Termination) _____

(Employee's last known address) _____

(Name and Address of New Employer or other source of income, if known)

Change in Health Insurance Status:

Persons Added: _____

Persons Deleted: _____

(Names) _____

(Names) _____

Other Pertinent Information:

(Business Name) _____

(Business Address) _____

(Business Phone) _____

SUPPORT OBLIGATION
DISCLOSURE FORM

TO: ALL NEW EMPLOYEES
(Hired or reinstated after January 1, 1990)

Section 40-5-425, Montana Code Annotated requires you to complete this form, sign it, date it, and return it to your employer.

 I have a support order which requires automatic income withholding. The amount withheld for court support should be \$ _____ per month.

 I do not have a support order requiring automatic income withholding.

Signature

Print your name

Today's Date

TO: EMPLOYER

Retain this form for three years after the date of hiring or one year after the date employment terminates, whichever is later.

1. If the employee owes a support obligation subject to automatic withholding, begin deducting support immediately. Retain this money until you receive an "Order to Withhold" from the MOniana Department of Social and Rehabilitation Services, Child Support Enforcement Division. If an "Order to Withhold" is not received within 45 days, call the CSED regional office serving your county.
2. Use this form for new employees only. You are prohibited by law from asking prospective employees to complete this form.

Montana's Child Support Enforcement Regional Offices will assist you with any additional questions or concerns.

Missoula—Region V
Department of SRS
Child Support Enforcement
Division
Suite 208
2501 Catlin
Missoula, MT 59801
(406) 721-1541

Great Falls—Region II
Department of SRS
Child Support Enforcement
Division
Montana Bldg., Suite 210,
503 1st Avenue North,
Great Falls, MT 59401
(406) 761-7675

Butte—Region IV
Department of SRS
Child Support Enforcement
Division
East Mall
Executive Village
529 East Front Street,
Butte, MT 59701
(406) 723-5409

Billings—Region III
Department of SRS
Child Support Enforcement
Division
Suite A,
1826 Grand Avenue,
Billings, MT 59102
(406) 652-3080

***Helena—Region VIII**
Department of SRS
Child Support Enforcement
Division
Interstate Withholding Unit
P.O. Box 5955
Old Livestock Building
Helena, MT 59604
(406) 444-2565

*This unit is responsible only for cases referred to Montana from another state.

MONTANA DEPARTMENT OF SRS

Child Support Enforcement Division

P.O. Box 5955

Helena, Montana

59604

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